# Powers - Search & Seizure, Survey: Comparative Analysis

## IT Act, 1961 vs IT Act, 2025

# Examination Powers

| Aspect | Income-tax Act, 1961 | Income-tax Act, 2025 |
|---|---|---|
| When summons can be issued | Under Sec.131(1A) - Only before taking action under Sec.132(1). | Sec.246(2)(c) – Before and during the course of search, to examine a person suspected to be concealing income |
| Examination on oath | under Sec.132(4) during search for persons in possession. | Sec.247(6): Examination of any person in possession or control of books or document or asset or any info in electronic form or computer system or any person present or is being searched. |
| Authorised officers list | Explicit list includes Deputy Director. | Deputy Director omitted by name but covered via definition of Assistant Director (Sec.2(15)). |

**Impact / Summary: 2025 Act widens timing and scope of summons and oath-examination; broader reach over persons present during search and also the person being searched.**

# Inclusion of Electronic/Digital Records

| Aspect | Income-tax Act, 1961 | Income-tax Act, 2025 |
|---|---|---|
| Trigger for search | Sec.132(1): Reason to believe based on information and failure to produce books/ documents. | Sec.247(1): Reason to believe includes failure to produce books/documents or information in electronic form or on a computer system. |
| Definition references | Books or books of account includes electronic forms after FA 2022 (Sec.2(12A)) and document includes electronic record (Sec.2(22AA)). | Explicitly mentions information in electronic form and computer systems; broader textual scope. |

**Impact / Summary: 2025 Act expands triggers to include non-production of electronic information or data on computer systems.**

# Search— Scope & Powers

| Aspect | Income-tax Act, 1961 | Income-tax Act, 2025 |
|---|---|---|
| Circumstances for search | Failure to produce books/documents or likely non-production. Sec.132(1)). | Expanded to failure to produce books or documents or any information in electronic form or on a computer system. (Sec.247(1)). |
| Powers during search | Seize books/documents; extract prints/photocopies. | Require access codes; override access codes; seize computer systems and electronic information; make extracts/copies. |

**Impact / Summary: 2025 Act gives clear authority to access and extract digital data including overriding access controls where necessary.**

# Case Law on Books of Account

| Aspect | Income-tax Act, 1961 |
|---|---|
| LKS Gold House (Madras HC) | Madras HC held amendment clarifying inclusion of electronic records is clarificatory; electronic data on pen drives/cloud falls within 'books of account'. |
| GSNR Rice Industries (Chennai Tribunal) | Held data retrieved from CPU not necessarily 'books of account'; definition covers regular books maintained for business. |
| Sheraton Apparels (Bombay HC) | Held 'books of account' are those maintained for credible filing and computation of income. |

**Impact / Summary: Judicial interpretations (as provided) clarify -books of account, electronic records and CPU.**

# Shift from Physical Space to Digital Space

| Aspect | Income-tax Act, 1961 | Income-tax Act, 2025 |
|---|---|---|
| Historical scope | Search and survey mainly focused on physical premises and tangible documents. | 2025 Act explicitly extends to computer systems, virtual space and digital assets. |
| Operational implication | Physical seizure, manual copies, lockers. | Cloning/imaging of drives, access to cloud/servers, seizure of virtual digital assets. |

**Impact / Summary: 2025 Act modernises search to capture digital transactions and online-held assets.**

# Definition - Computer System

| Aspect | Income-tax Act, 1961 | Income-tax Act, 2025 |
|---|---|---|
| Definition | No separate definition in original 1961 Act (documents/ electronic records included via FA 2022 amendments). | Sec.261(e) of 2025 Act defines 'computer system' to mean computers, computer networks, computer resources, communication devices, digital or electronic data storage devices, and includes remote server or cloud server or virtual digital space. |
| **Impact / Summary: Explicit statutory definition in 2025 Act removes ambiguity and includes cloud & remote servers.** | | |

# Definition — Virtual Digital Space & Assets

| Aspect | Income-tax Act, 1961 | Income-tax Act, 2025 |
|---|---|---|
| Virtual digital space | Not separately covered under 1961 Act. | Sec.261(j): Includes email servers, social media, online investment/trading accounts, websites, remote servers, cloud servers, digital app platforms and similar spaces. |
| Asset | money, bullion, jewellery, valuable article or thing | Sec.261(b): 'Asset' expressly includes virtual digital assets such as cryptocurrencies and NFTs. |

**Impact / Summary: 2025 Act brings email, social media, wallets and crypto-assets within search scope; raises privacy and procedural concerns.**

# Inclusion of Black Money Act

| Aspect | Income-tax Act, 1961 | Income-tax Act, 2025 |
|---|---|---|
| Scope | Undisclosed income/ property not disclosed under Income-tax Act warranted search (Sec.132(1)(c)). | 2025 Act extends coverage to undisclosed income/property not disclosed under Black Money (Undisclosed Foreign Income and Assets) Act, 2015 (Sec.247(1)(b)). |
| Effect | Focus on domestic undisclosed income/assets. | Also covers undisclosed foreign income/assets under Black Money Act. |

**Impact / Summary: 2025 Act expands subject-matter of search to include undisclosed foreign income/assets under Black Money Act.**

# Information in relation to assets — Expansion to information holders

| Aspect | Income-tax Act, 1961 | Income-tax Act, 2025 |
|---|---|---|
| scope | Search when person in possession of specified assets representing undisclosed income/property. | 2025 Act expands to any person in possession of information related to specified assets (not only physical possession). |
| Practical effect | Focus on holders of assets. | Broader reach to information holders - data custodians, intermediaries may be subject to search/examination. |

**Impact / Summary: 2025 Act widens scope to include persons holding relevant information, increasing reach beyond physical possessors.**

# Impracticable Seizure -Case Insight & Practical Consequence

| Aspect | Income-tax Act, 1961 | Income-tax Act, 2025 |
|---|---|---|
| Judicial position | Kerala HC in ITO v. M. Shajahan: monies in bank are impracticable to seize; prohibitory order effective; lockers' contents are in possession of customer and seizable. | 2025 Act mirrors judicial position and makes explicit statutory provision for bank accounts and lockers under Sec.247(4). |
| Practical consequence | Deductors and banks were previously addressed by orders/copies; uncertainty existed. | Now statutory clarity reduces procedural ambiguity for officers and banks. |

**Impact / Summary: Explicit statutory inclusion aligns practice with law and reduces operational ambiguity.**

# Impracticable Seizure -Bank Accounts vs Lockers

| Aspect | Income-tax Act, 1961 | Income-tax Act, 2025 |
|---|---|---|
| Bank accounts | Section 132(3): Where it is not practicable to seize books, documents, money, bullion, jewellery, valuable article or thing | 2025 Act explicitly also includes bank accounts, lockers and computer system under Sec.247(4) where seizure is not practicable. |
| Bank lockers | Lockers treated as possession of assessee; direct seizure possible under Sec.132(1)(iii). | 2025 Act explicitly recognises impracticable seizure provisions for lockers,accounts and computer system; provides clarity in statute. |

**Impact / Summary: 2025 Act codifies practice; prohibitory order issued for bank accounts and lockers.**

# Presumption of Exchange via Electronic Devices

| Aspect | Income-tax Act, 1961 | Income-tax Act, 2025 |
|---|---|---|
| Presumptions | Sec.132(4A) & Sec.292C: Presumptions as to ownership/contents of books/documents found. | 2025 Act: Sec.247(7)(e) & Sec.524: Extends presumptions to electronic records, data and communications. |
| Burden on assessee | Onus to explain nature/source of seized material. | Onus extended to explain electronic exchange/communications and digital records. |

**Impact / Summary: 2025 Act imports presumption framework to digital communications, increasing evidentiary weight of seized electronic material.**

# Time-limit for Handing Over Seized Items

| Aspect | Income-tax Act, 1961 | Income-tax Act, 2025 |
|---|---|---|
| Handing over to jurisdictional AO | Sec.132(9A): Seized material to be handed over within 60 days. | Sec.251(1): Time limit extended to 180 days under 2025 Act. |
| Rationale/Effect | Earlier handover aimed at prompt assessment handling. | Longer period allows digital forensics, verification and cross-jurisdictional coordination. |

**Impact / Summary: Extension to 180 days provides authorities time for comprehensive digital analysis; impacts timelines for assessments.**

# Recording of Statements during Survey – Legal Provision

| Aspect | Income-tax Act, 1961 | Income-tax Act, 2025 |
|---|---|---|
| Relevant Section | Section 133A(3)(iii) | Section 253(5)(b) |
| Nature of Power | Authority may record statement of any person, not on oath. | Authority may record statement of any person on oath. |
| Purpose | To collect information useful or relevant to any proceeding. | Same purpose, but statements carry evidentiary value. |
| Legal Status | Statements not admissible as evidence (not on oath). | Statements on oath admissible as evidence. |
| Comparison | Limited evidentiary value under survey. | Rationalised for parity with Sections 131 & 132(4). |

**Impact / Summary: The 2025 Act strengthens evidentiary value of survey statements by enabling recording on oath, reducing procedural disputes.**

# Concerns and Clarifications

| Issues | Concerns | Clarifications |
|---|---|---|
| Risk of Coercion | Recording on oath may lead to coercive or undue pressure. | Oath adds only evidentiary formality; process unchanged. |
| Prejudice to Taxpayer | May disadvantage assessee if used as evidence. | On oath ensures admissibility without altering process. |
| Existing Safeguards | Section 133A(6) read with 131 already allows oath statements. | Clause 253(5)(b) rationalises the framework and clarifies power. |

**Impact / Summary: Technical enhancement ensuring admissibility, not a new coercive power.**

# Judicial and Legal Validation

| Issues | Concerns | Clarifications |
|---|---|---|
| Judicial Precedent | CIT v. S. Kader Khan Son (352 ITR 480, SC): statements not on oath lack evidentiary value. | Amendment introduced to overcome judicial limitation. |
| Judicial Consequence | Survey statements had no evidentiary force. | Statements on oath now have statutory validity. |
| Legal Opinion (Dept. of Legal Affairs) | Not applicable earlier. | Confirmed Clause 253(5)(b) consistent with legal principles. |
| Policy Outcome | Ambiguity led to litigation. | Legal clarity and constitutional compliance achieved. |

**Impact / Summary: Post-Kader Khan, the income-tax Act, 2025 legitimises survey statements, ensuring admissibility and policy coherence.**

# Digital Transformation in Powers of Survey

| Aspect | Income-tax Act, 1961 (Section 133A) | Income-tax Bill, 2025 (Section 253) | Digital Impact |
|---|---|---|---|
| Access to Records | Limited to physical inspection of books and documents. | Includes right to inspect information in electronic form or computer systems | Ensures comprehensive access to digital information. |
| Data Verification | Manual verification of physical records. | Real-time verification of e-records and databases. | Speeds up compliance and improves accuracy. |
| Impounding power | Any books of account or other document. | Books or document or computer system | Enhances investigating capabilities. |

**Impact / Summary: The 2025 Act transforms the survey powers for the digital age—authorizing access to electronic data, computer systems, and cloud records. It enables faster, tech-driven verification and strengthens digital compliance and accountability.**

# Monetary Limit for Information Request

| Aspect | Income-tax Act, 1961 | Income-tax Act, 2025 |
|---|---|---|
| Relevant Section | Section 133(4) | Section 252(1)(e) |
| Nature of Power | Allows authority to call for information from any assessee. | Same power continued under new Act. |
| Threshold Limit | Payments exceeding ₹1,000 in any previous year. | Limit increased to ₹10,000 per year. |
| Scope of Information | Names and addresses of persons paid rent, interest, commission, royalty, brokerage or annuity. | Same information; revised monetary threshold. |
| Purpose | Facilitates data gathering for compliance and verification. | Improves efficiency and reduces unnecessary reporting. |

**Impact / Summary: The monetary threshold has been rationalised to ₹10,000 to align with inflation and ease compliance burden for small payments.**

# Empowerment of Joint Director for Information Collection

| Aspect | Income-tax Act, 1961 | Income-tax Act, 2025 |
|---|---|---|
| Relevant Section | Explanation to Section 133B | Section 254(4) |
| Authority Defined | Joint Commissioner, Assistant/ Deputy Director, Assessing Officer, and authorised Inspector. | Joint Director added to the list of empowered authorities. |
| Nature of Power | May enter premises to collect information relevant to the Act. | Same power extended to Joint Director. |
| Objective | To facilitate effective collection of tax-related data. | Enhances administrative efficiency and supervisory capacity. |
| Change Introduced | Joint Director was not included earlier. | Now explicitly included in definition of 'income-tax authority'. |

**Impact / Summary: The inclusion of the Joint Director strengthens the administrative framework, ensuring better coordination in information collection.**

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# Comparative Analysis of Assessment Provisions

## IT Act, 1961 vs IT Act, 2025

# Faceless Assessment Procedure

| Aspect | Income-tax Act, 1961 | Income-tax Act, 2025 |
|---|---|---|
| Procedure | Detailed in s.144B(1) | Delegated to Rules under s.273 |
| Parliamentary control | In section | Via rule-making oversight |
| Definitions | Included in section | Shifted to Rules |

**Impact / Summary: Allows flexibility**

# Assessment Time Limit

| Aspect | Income-tax Act, 1961 | Income-tax Act, 2025 |
|---|---|---|
| Section | 153 | 286 |
| Terminology | 12 months | 1 year |
| Computation base | Same principle | Same, modernised |
| Overall limits | Unchanged durations | Clarity in language |

**Impact / Summary: Simplifies computation references; aligns drafting format.**

# Time limit to furnish Special Audit or Inventory Valuation

| Aspect | Income-tax Act, 1961 | Income-tax Act, 2025 |
|---|---|---|
| Section | 142(2C) | 268(10) |
| Computation start | From direction date | From end of month |
| Max duration | 180 days | 6 months |
| Flexibility | Rigid | More practical timeline |

**Impact / Summary: Improves compliance ease and reduces disputes.**

# Powers of the Valuation Officer

| Aspect | Income-tax Act, 1961 | Income-tax Act, 2025 |
|---|---|---|
| Section | 142A | 269(3) & 2(110) |
| Definition | Cross-reference to Wealth Tax Act | Defined in the Act |
| Authority powers | Indirect | Explicit entry, notice and consent |
| Safeguards | Limited | Two-day notice rule |

**Impact / Summary: Codifies powers and ensures transparency.**

# DRP Directions

| Aspect | Income-tax Act, 1961 | Income-tax Act, 2025 |
|---|---|---|
| Section | 144C(6) | 275(6) |
| Focus | List of specific items | Structure & reasoning of directions |
| Transparency | Implied | Explicit requirement |
| Faceless model | Team-based | Removed |

**Impact / Summary: Improves accountability and clarity of DRP process.**

# GAAR & Court Directions as Information

| Aspect | Income-tax Act, 1961 | Income-tax Act, 2025 |
|---|---|---|
| Section | 148 | 280 |
| Trigger for reassessment | Limited sources | Includes GAAR & Court directions |
| Procedure | Requires 148A process | Exempt from 281 process |
| Approval | Specified authority | Mandatory |

**Impact / Summary: Expands scope of reassessment based on binding directions.**

# No Limitation for GAAR

| Aspect | Income-tax Act, 1961 | Income-tax Act, 2025 |
|---|---|---|
| Section | 150 | 283 |
| No limit clause | Order of any authority in any proceeding under this Act, by way of appeal, reference or revision or by a Court in any proceeding under any other law | Authority is expanded to include Tribunal or Court.<br>Also includes GAAR directions |
| Safeguard | Exists for time-barred cases | Retained |

**Impact / Summary: Maintains balance between GAAR directions and Assessment**

# Effect to Appellate/Revisionary Orders

| Aspect | Income-tax Act, 1961 | Income-tax Act, 2025 |
|---|---|---|
| Initial limit | 3 months | 6 months |
| Extension limit | 6 months | 3 months |
| Rationale | Difficulties in reconciliation | Extended for practicality |

**Impact / Summary: Reduces grievances; rationalises timelines for better closure.**

# Avoiding Repetitive Appeals

| Aspect | Income-tax Act, 1961 | Income-tax Act, 2025 |
|---|---|---|
| Section | 158A | 375(1)(b)(v) |
| SLP inclusion | Not specified | Explicitly included |
| Scope | Limited to HC/SC | Now includes Article 136 SLPs |
| Assessee declaration | Available | Extended coverage |

**Impact / Summary: Reduces multiplicity of appeals and enhances certainty.**

# Faceless Scheme Inquiry & Valuation

| Aspect | Income-tax Act, 1961 | Income-tax Act, 2025 |
|---|---|---|
| Section | 142B(1)(c) | 532(1) |
| Faceless inquiry | Included team-based model | Team-based removed |
| Dynamic jurisdiction | Permitted | Removed |
| Objective | Efficiency and transparency | Simplification and clarity |

**Impact / Summary: Streamlines faceless scheme; reduces complexity.**

# Faceless Reassessment

| Aspect | Income-tax Act, 1961 | Income-tax Act, 2025 |
|---|---|---|
| Section | 151A | 532 |
| Team-based decision | Included | Removed |
| Jurisdiction model | Dynamic | Simplified |
| Purpose | Efficiency | Reduced overlap |

**Impact / Summary: Simplifies reassessment with reduced procedural tiers.**

# Faceless Rectification

| Aspect | Income-tax Act, 1961 | Income-tax Act, 2025 |
|---|---|---|
| Section | 157A | 532 |
| Team-based approach | Included | Removed |
| Dynamic jurisdiction | Allowed | Omitted |
| Objective | Transparency | Simplification |

**Impact / Summary: Simplifies operations; maintains efficiency of rectification.**

# Powers for Faceless Schemes

| Aspect | Income-tax Act, 1961 | Income-tax Act, 2025 |
|---|---|---|
| Separate scheme provisions | Multiple sections | Unified s.532 |
| Team-based/dynamic | Included | Excluded |
| Continuity | Dependent schemes | Deemed continuation under s.536 |

**Impact / Summary: Creates unified governance; simplifies future scheme management.**

# Thank You

Your attention is deeply appreciated